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**GUIDELINES ON DISCRIMINATION BECAUSE OF NATIONAL ORIGIN
(Speak-English-Only Rules)**

1. Purpose: This is to clarify and insure the understanding of the Speak-English Only Rule.
2. References:
 - a. Title VII of the Civil Rights Act of 1964 protects individuals against employment discrimination on the basis of national origin as well as race, color, religion and sex.
 - b. Code of Federal Regulations Title 29, Volume 4 Parts 900 to 1899, revised as of July 1, 2000. (29 CFR 1606.7)

It is unlawful to discriminate against any employee or applicant because of the individual's national origin. No one can be denied equal employment opportunity because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. Equal employment opportunity cannot be denied because of marriage or association with persons of a national origin group; membership or association with specific ethnic promotion groups; attendance or participation in schools, churches, temples or mosques generally associated with a national origin group; or a surname associated with a national origin group.

3. Speak-English-Only Rule

A rule requiring employees to speak only English at all times on the job may violate Title VII, unless an employer shows it is necessary for conducting business. If an employer believes the English-only rule is critical for business purposes, employees have to be told when they must speak English and the consequences for violating the rule. Any negative employment decision based on breaking the English-only rule will be considered evidence of discrimination if the employer did not tell employees of the rule.

Cited below - 29 CFR 1606.7 Speak –English-Only Rules. (<http://www.eeoc.gov/regs/index.html>)

- a. When applied at all times. A rule requiring employees to speak only English at all times in the workplace is a burdensome term and condition of employment. The primary language of an individual is often an essential national origin characteristic. Prohibiting employees at all times, in the workplace, from speaking their primary language or the language they speak most comfortably, disadvantages an individual's employment opportunities on the basis of national origin. It may also create an atmosphere of inferiority; isolation and intimidation based on national origin, which could result in a discriminatory working environment. Therefore, the Commission will presume that such a rule violates title VII and will closely scrutinize it.
- b. When applied only at certain times. An employer may have a rule requiring that employees speak only in English at certain times where the employer can show that the rule is justified by business necessity.

c. Notice of the rule. It is common for individuals whose primary language is not English to inadvertently change from speaking English to speaking their primary language. Therefore, if an employer believes it has a business necessity for a speak-English-only rule at certain times, the employer should inform its employees of the general circumstances when speaking only in English is required and of the consequences of violating the rule. If an employer fails to effectively notify its employees of the rule and makes an adverse employment decision against an individual based on a violation of the rule, the Commission will consider the employer's application of the rule as evidence of discrimination on the basis of national origin.

4. Accent

An employer must show a legitimate nondiscriminatory reason for the denial of employment opportunity because of an individual's accent or manner of speaking. Investigations will focus on the qualifications of the person and whether his or her accent or manner of speaking had a detrimental effect on job performance. Requiring employees or applicants to be fluent in English may violate Title VII if the rule is adopted to exclude individuals of a particular national origin and is not related to job performance.

5. Harassment

Harassment on the basis of national origin is a violation of Title VII. An ethnic slur or other verbal or physical conduct because of an individual's nationality constitute harassment if they create an intimidating, hostile or offensive working environment, unreasonably interfere with work performance or negatively affect an individual's employment opportunities.

Employers have a responsibility to maintain a workplace free of national origin harassment. Employers may be responsible for any on-the-job harassment by their agents and supervisory employees, regardless of whether the acts were authorized or specifically forbidden by the employer. Under certain circumstances, an employer may be responsible for the acts of non-employees who harass their employees at work.

6. Point of Contact's for additional information or guidance are:

- a. MAJ Evelyn M. Torres, State Equal Employment Manager, 609-562-0856.
- b. MSgt Kathleen McCready, Equal Employment Specialist, 609-562-0854

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